

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
(Rural Development)
Plaintiff,

CIVIL NO. 97-2457(DRD)

v.

**FELIPE RIVERA RIVERA, MARIA
EUGENIA BERRIOS BERRIOS, and the
Conjugal Partnership Constituted by them,**
Defendants

ORDER

Pending before the Court is plaintiff's *Motion to Set Aside Sale*. (Docket No. 10). Plaintiff requests the Court to stay and set aside the judicial sales scheduled for February 8, 15, and 22 of 2005 due to defendants having filed a Bankruptcy proceeding under Chapter 13, Case No. B05-01019(GAC). Furthermore, the Court notes that a *Process Receipt and Return* was filed by the U.S. Marshal on March 8, 2005 wherein he remarked that, on February 4, 2005, the "sale was cancelled due to Bankruptcy #05-01019". (Docket No. 12).

The filing of a petition of bankruptcy operates as an automatic stay for, *inter alia*, "the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title." 11 U.S.C. § 362(2); *see also* 11 U.S.C. § 1301 ("after the order of relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor [...]"). In the instant case, defendants have filed a Chapter 13 Bankruptcy Petition. Consequently, all proceedings regarding the execution of the judgment are hereby **STAYED**. With the automatic stay in effect, the Court is disallowed to proceed any further in the instant case. Accordingly, plaintiff's request is hereby **GRANTED/MOOT** and the public sales of defendants' property scheduled for February 8, 15, and 22 of 2005 are **VACATED**.

The Clerk of Court is **INSTRUCTED** to give notice of this *Order* to the U.S. Marshal for this District.

The United States is to advise the Court every sixty (60) days as to the bankruptcy proceedings and as to a potential lifting of stay as to this case. Failure to notify will cause dismissal without prejudice.

IT IS SO ORDERED.

Date: May 31, 2005

s/ Daniel R. Dominguez
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE